IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MS JUSTICE G.ROHINI
WRIT PETITION NO : 16755 of 2004

Between:
Shiva Rice Depot, rep., by its Proprietor Sri V.Nagaraju, s/o Sri V.Rajesham, D.No.2-3-48, Kaman Road, Karimnagar, Karimnagar District.

..... PETITIONER

AND

1 The Director of Marketing, Government of Andhra Pradesh, B.R.K.R.Building, Near Tank Bund, Hyderabad.
2 The Agricultural Market Committee, Karimnagar, represented by its Selection Grade Secretary, Karimnagar, Karimnagar District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus, declaring the impugned notice vide proceedings No.M.C.(C)1/2004-05/452 dated 25-6-2004 issued by the 2nd respondent as illegal, arbitrary and unjust and consequently set aside the same.

Counsel for the Petitioner: MR.CH.RAVINDER

Counsel for Respondent No.1: GP FOR AGRICULTURE

Counsel for Respondent No.2: Smt.Nanda R Rao

The Court at the stage of admission made the following Order:

Heard the learned counsel for the petitioner and the learned standing counsel appearing for the second respondent.

This writ petition is filed seeking a declaration that the impugned notice dated 25-06-2004 issued by the second respondent-Agricultural Market Committee, Karimnagar, Karimnagar District calling upon the petitioner to pay a sum of Rs.35,814/- towards market fee on the rice sold by him, as arbitrary and illegal.

One of the contentions raised by the learned counsel for the petitioner is that the second respondent, before levying the market fee, ought to have issued a notice to the petitioner calling upon to put forward his case against such levy. It is also contended that since the market fees has already been collected on the paddy before its conversion into rice there cannot be any further levy and therefore the impugned demand is unsustainable.

It is to be noted that in W.P.No.11307 of 2003, this Court, while considering the validity of an identical demand, held that the second respondent cannot be permitted straightaway to levy the market fee and take steps to recover the same. Accordingly, the order impugned in the said writ petition was set aside, leaving it open to the second respondent to pass appropriate orders, after considering the contentions that may be put forward by the petitioner.

The fact that the present case also stands on the same footing is not disputed by the learned standing counsel for the second respondent.

Accordingly, following the order dated 18-06-2003 in W.P.No.11307 of 2003, this writ petition is allowed and the impugned order is set aside, leaving it open to the second respondent-Agricultural

Market Committee, Karimnagar, Karimnagar District to pass appropriate orders, after issuing notice to the petitioner and after taking into account the contentions that may be put forward by the petitioner. No costs.

_____

17-09-2004

kdl

To

1 The Director of Marketing, Government of Andhra Pradesh, B.R.K.R.Building, Near Tank Bund, Hyderabad.
2 The Agricultural Market Committee, Karimnagar, represented by its Selection Grade Secretary, Karimnagar, Karimnagar District.
3 Two C.Cs. to the Government Pleader for Agriculture, High Court Buildings, A.P., Hyderabad.(OUT)
4 Two C.D. Copies.